

August 19, 2016

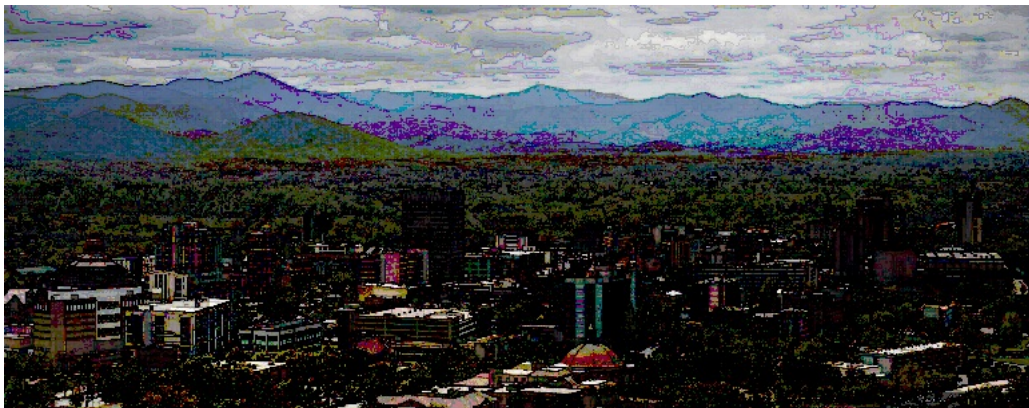
Zeno B. Lancaster, IV, Esq.
Lancaster Law Firm, LLC
56 Central Avenue
Suite 203
Asheville, NC 28801

Via email: zeno@lancasterlawfirm.com

RE: Client: David Oppenheimer
Matter: Infringement(s) of Copyrighted Photograph

Dear Mr. Lancaster:

The undersigned represents David Oppenheimer with respect to copyright matters, including your direct infringements of his image below.



You have communicated with Mr. Oppenheimer about this matter, and so you know the allegations and the facts surrounding this piracy of his intellectual property. Henceforth however, you are to communicate only with the undersigned with regard to same.

This letter is Mr. Oppenheimer's demand that you *immediately*:

1. **Cease and desist from all further dissemination** or distribution of this image and all other images of Mr. Oppenheimer, and provide proof of same to the undersigned;¹
2. **Lockdown and protect all Electronically-Stored Information**, including email, as described in the attached “Notice Concerning Retention of Potentially Relevant Documents;”
3. **Produce to the undersigned** a copy of each and every brochure, flier, and all other tangible advertising distributed or to be distributed, bearing the image, and provide same to the undersigned for destruction;
4. **Produce to the undersigned** all digital copies of the image, so we may confirm that Mr. Oppenheimer’s Metadata, including his © and name, was “scrubbed” from them in violation of the Digital Millennium Copyright Act;
5. **Buy back or otherwise withdraw** all distributed copies of everything bearing the protected image;
6. **Return all remaining copies** in your possession and constructive possession, including all tangible representations and all magnetically or optically-stored data of any kind bearing and/or storing respectively the copyrighted image, and any other of Mr. Oppenheimer’s images, including but not limited to all color separations, internegatives, mechanicals, digital images, etc.;²
7. **Tender to the undersigned a sworn itemization** of all uses to which any of you have put the work, *as well as any others* of Mr. Oppenheimer’s;

¹ We are aware that you removed the infringement on Facebook, and on the Lancaster Law Firm, LLC website, but those are the only infringements that we’ve been able to discover. Any further infringements will expose you and your firm to willful infringement damages under Title 17.

² However, **do not delete any digital evidence** (including but not limited to images, email, email attachments, mockups, memos or other relevant or potentially relevant paper or digital data) from any of your servers, backup servers/cloud storage, desktops, laptops or smart phones. Doing so is *spoliation of evidence*, as described in the enclosed Notice Concerning Retention of Potentially Relevant Documents (**See attached**). **Instead, please immediately advise your client to initiate a “lockdown” of all such locations** where relevant data might reside, to prevent intentional or negligent destruction of evidence (most counsel advise clients to mirror all servers and hard drives).

8. **Tender to the undersigned an audited accounting** of all revenue received by your firm since the inception of the infringement; *and*
9. **Immediately inform your firm's Commercial General Liability Insurance Carrier of this claim** (copyright infringement claims of this type are covered under Coverage B, the "advertising injury" portion of most Comprehensive General Liability Insurance Policies).

Please forward correspondence to the undersigned within ten (10) days of receipt of this letter indicating your intentions in these regards. Absent actual receipt by the undersigned of such correspondence within the ten days, no further pre-suit communications will be entertained.

Again, please do not communicate directly with Mr. Oppenheimer about this matter, as doing so will be construed tortious interference with the attorney-client relationship. Rather, if you have questions or comments, please direct them to the undersigned, at the address or phone number in the letterhead, weekdays, during regular business hours.

Very truly yours,



Dana LeJune

DL/nll

Encl: Spoliation Warning